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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,693	11/14/2003	Emmitt Carroll	00-1840	2929

40158 7590 07/11/2006

WOODS FULLER SHULTZ & SMITH P.C.  
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SIOUX FALLS, SD 57117

EXAMINER
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MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/713,693

Applicant(s)

CARROLL, EMMITT

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 7-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/14/03</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 1, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (6923357), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Stuckey (1262402). Smith teaches a holding device having a harness with a shoulder straps, cross strap 17 interconnecting the shoulder straps, and an adjustable belt, an umbrella holding bracket 32, one of the pocket 36 can be the cup holder as claimed, and a another one of pocket is the pocket for storing a folded up umbrella as claimed. It is noted that the terms "cup holder" is broad, one of pocket 36 can hold a small paper cup as claimed. Furthermore, the pocket 36 can hold an umbrella as claimed, i.e., it can hold a small compact umbrella.

Furthermore, there is no structurally difference between the claimed pocket and the pocket 36.

In the alternative, it would have been obvious to one of ordinary skill in the art to provide to provide an umbrella bracket as taught by Stuckey to provide the desired protection during rain.

Regarding claim 9, the pockets 36 are attached to the back side as claimed, since the orientation is relative.

2. Claim 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Stuckey (1262402). It would have been obvious to one of ordinary skill in the art to provide to provide loops at the ends of each shoulder strap to adjust the harness easily.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Smith rejection as set forth in paragraph 1, and further in view of Cumpston (903682). Cumpston teaches that it is known in the art to provide an umbrella support having a plate 7 with holes at d and a bracket 9 and a sleeve 9g being pivotally fastened to the bracket member. It would have been obvious to one of ordinary skill in the art to provide the umbrella support as taught by Cumpston to provide protection during rain and/or to provide an alternative support.

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4. Claim 7, and 8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the double patenting rejection.

5. Claim 10 is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai  
Primary Examiner  
Art Unit 3727

